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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

CARLOS HICKS,

Plaintiff,

v.

TESLA, INC.; and DOES 1-10,

Defendants.

Case No.

COMPLAINT

JURY TRIAL DEMANDED

INTRODUCTION

1. Plaintiff Carlos Hicks (“Plaintiff” or “Mr. Hicks”) brings this action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000(e) *et seq.* (“Title VII”) against Defendant Tesla, Inc., dba Tesla Motors, Inc. (hereinafter “Tesla” or “Defendant”) for racial discrimination and for retaliation he faced after raising concerns about sexual harassment in the workplace with Tesla Human Resources (HR).

2. Mr. Hicks was a promising employee at Tesla. He was hired as a temporary worker by Defendant in the Sparks, Nevada facility in June 2020 but became a full-time employee in November 2020. Mr. Hicks hoped to begin a lasting career with Tesla and worked hard to accomplish that goal. But Tesla did not maintain a work environment where Mr. Hicks or other Black employees could thrive, especially not Black employees who spoke up about discrimination at work.

3. Instead, Tesla fostered a culture that was permissive of racism and sexism. Management and co-workers routinely and casually used the n-word and other racial epithets, and they played loud music in communal spaces that used racially and sexually derogatory language. When Mr. Hicks’ co-workers acted in ways that made it difficult for Black employees and women to feel comfortable at work, management made it clear that addressing such behaviors was far down on their list of priorities. When Mr. Hicks stood up for himself and his co-workers, he faced retaliation.

4. In or about November or December 2020, Mr. Hicks complained to HR about sexually-charged and inappropriate comments another employee made in a group message viewable by Mr. Hicks’ team, and about the failure of Plaintiff’s supervisor to address the comments. In retaliation, that supervisor issued Mr. Hicks a “needs improvement” review for offering “feedback” about his coworkers, even as he acknowledged that Mr. Hicks was a “bright young kid” who was “happy to focus on his work.” He then made Mr. Hicks’ life at Tesla extremely difficult.

5. Mr. Hicks’ experience was part of a pattern and practice of discrimination at Tesla. Complaints about racial harassment, discrimination, and retaliation are ignored by Tesla. Management clearly had notice of the use of racist and sexist epithets, graffiti, and music in the Sparks facility. Tesla’s failure to address the issues appeared to Mr. Hicks as a tacit endorsement of the conditions that made the workplace inhospitable to Black employees. Discriminatory mistreatment by certain

1 supervisors and the daily indignities he experienced weighed on Mr. Hicks. Bringing the problem to the
2 attention of his superiors and to HR only exposed him to retaliation.

3 6. On information and belief, Tesla’s CEO, Elon Musk, characterizes himself as a “free
4 speech absolutist,” a policy reflected in allegations that Tesla has failed to take remedial measures in
5 response to consistent and repeated complaints about discrimination and harassment.¹ Mr. Musk has
6 advised that Tesla workers should be “thick-skinned” about race harassment.² That attitude was adopted
7 from the top-down by management at the Sparks facility, which approached issues of discrimination by
8 ignoring the problem or portraying people like Mr. Hicks as confrontational or poor members of the
9 team. His experiences and the company culture made it apparent that complaining was futile and
10 discouraged Mr. Hicks from seeking help.

11 7. Despite Tesla’s failure to address any of the problems that made the workplace hostile to
12 Mr. Hicks’ growth, he tried to persevere. He sought training to develop the skills he needed to succeed
13 and looked for opportunities to advance. Two supervisors who directly oversaw Mr. Hicks during his
14 tenure at Tesla saw his potential and acknowledged his dedication to his work. But Mr. Hicks was
15 continuously held back by the retaliatory performance review that he had received from his direct
16 supervisor in January 2021.

17 8. Mr. Hicks lost promotions due to the retaliatory review. Eventually, the work
18 environment became so hostile that Mr. Hicks was forced to resign and abandon his dream of working at
19 Tesla.

20 **PARTIES, JURISDICTION & VENUE**

21 9. Plaintiff Carlos Hicks is, and at all relevant times was, a Black and Hispanic adult male.

23 ¹ David Klepper, Report: Tweets with Racial Slurs Soar Since Musk Takeover, Nov. 10, 2022,
24 [https://apnews.com/article/elon-musk-technology-business-government-and-politics-
2907d382db132cfd7446152b9309992c](https://apnews.com/article/elon-musk-technology-business-government-and-politics-2907d382db132cfd7446152b9309992c) [accessed May 23, 2023]; Faiz Siddiqui, Judge Denies Tesla’s Bid to
25 Move Sexual Harassment Case to Arbitration, [https://www.washingtonpost.com/technology/2022/05/24/tesla-
sexual-harassment-case/](https://www.washingtonpost.com/technology/2022/05/24/tesla-sexual-harassment-case/), May 24, 2022 [accessed May 23, 2023].

26 ² In an email to workers in 2017, Elon Musk, Tesla’s Chief Executive Officer, warned against “being a huge jerk”
27 to members of “a historically less represented group.” At the same time, he wrote, “if someone is a jerk to you,
28 but sincerely apologizes, it is important to be thick-skinned and accept that apology.” Sam Levin, She Took on
Tesla for Discrimination. Now Others Are Speaking Up. 'It's Too Big to Deny', Jul. 5, 2017,
[https://www.theguardian.com/technology/2017/jul/05/tesla-sexual-harassment-discrimination-engineer-
fired?CMP=share_btn_tw](https://www.theguardian.com/technology/2017/jul/05/tesla-sexual-harassment-discrimination-engineer-fired?CMP=share_btn_tw) [accessed May 23, 2023].

1 During his employment with Tesla, he was a resident of Nevada. He is currently a resident of Oregon.

2 10. Plaintiff was employed by Defendant in Sparks, Nevada. Defendant's conduct at all
3 relevant times occurred in Sparks, Nevada and/or in its principal place of business in Palo Alto,
4 California.

5 11. Defendant Tesla is a Delaware corporation that had its principal place of business at all
6 relevant times in Palo Alto, California. Tesla moved its principal place of business to Austin, Texas on
7 December 1, 2021. Defendant designs, develops, manufactures, tests, markets, distributes, sells, and
8 leases electric vehicles under the brand name "Tesla." Defendant was at all relevant times an employer
9 as defined in Section 701(b) of Title VII.

10 12. Defendants DOES 1 through 10 are sued under fictitious names because their true
11 names and capacities are unknown at this time. Plaintiff will amend this Complaint to allege DOE
12 Defendants' true names and capacities when ascertained. Plaintiff is informed and believes and
13 thereupon alleges that at all material times herein, each Defendant named herein, including DOES 1
14 through 10, acted as the agent, employee, supervisor, joint venture, representative, and/or alter ego of
15 or for the other Defendants; all aided and abetted the wrongful acts of the others; and all are subject to
16 the jurisdiction and venue of this Court. In doing the things herein alleged, each and every Defendant
17 was acting within the course and scope of this agency or employment and was acting with the consent,
18 permission, and authorization of each of the remaining Defendants. All actions of each Defendant
19 were ratified and approved by the officers or managing agents of every other Defendant.

20 13. This court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331 and § 1343.
21 Plaintiff's claims arise under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000(e) *et seq.* This
22 Court has jurisdiction over this matter pursuant to 42 U.S.C. §§ 1331 and 1343(a)(4). The Court has
23 supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over claims under the Nevada Fair
24 Employment Practices Act, Nev. Rev. Stat. §613.330.

25 14. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because a substantial part
26 of the events or omissions giving rise to the claim occurred in this District.

27 **FACTUAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

28 15. In or about June 2020, Defendant hired Mr. Hicks through a staffing company as a

1 temporary worker in its Sparks, Nevada warehouse. Mr. Hicks became a full-time Material Handler at
2 Tesla in November 2020. Even when he was first hired, Mr. Hicks looked for opportunities to progress
3 at Tesla.

4 **Actions and Omissions by Tesla Management Contributed to a Hostile Work**
5 **Environment for Black Employees**

6 16. From the beginning of his employment, Mr. Hicks and other Black workers were
7 subjected to hearing racial epithets in the workplace. Mexican American and white managers loosely
8 used the n- word to address one another in the Sparks, Nevada Tesla facility. Managers made no effort
9 to reprimand white employees when they used the n-word in front of managers and Black employees,
10 including Mr. Hicks.

11 17. Tesla permitted racially-charged graffiti at the Nevada warehouse in commonly shared
12 spaces, such as in elevators, booths, and bathrooms.

13 18. Managers used these spaces and could see the racist vandalism, but did nothing about it.
14 Mr. Hicks found words and phrases like “nazi,” “bring slavery back,” and the n- word, and drawings of
15 swastikas, confederate flags, and sexual drawings that were never removed throughout the duration of
16 his employment. These images were in areas heavily used by management.

17 19. Tesla also allowed managers and sometimes employees to play their own music at work
18 stations through auxiliary speakers. Many songs were profane and used racist and offensive words like
19 the n- word, “bitch,” “ho” and similar words. This language was accepted without question by managers
20 in the workplace. Everyone within at least 60 feet of the work area could hear this music, including new
21 hires and more senior managers within the company whenever they walked the production floor. At no
22 point while Mr. Hicks worked at Tesla did leadership provide any rules or restrictions on the music that
23 was played.

24 20. Mr. Hicks and other Black employees were routinely made to work in unfavorable and
25 unsafe work areas, while less physically straining work was given to non-Black workers. Mr. Hicks
26 was forced to work overtime outside of his usual area.

27 21. Mr. Hicks was afraid that if he complained about the racial harassment at work, that he
28 would be retaliated against because he was a Black man. It was clear to Mr. Hicks that complaining

1 about the racism pervading the workplace would be futile because so many managers witnessed the
2 racist remarks, graffiti, and music, and did not say anything to stop of any of it.

3 **Retaliation for Reporting Sexual Harassment**

4 22. Tesla uses internal group messaging to communicate information from management to
5 employees and for employees to communicate with each other and their supervisors. Mr. Hicks and his
6 co-workers were part of a group message thread that was viewable by his direct supervisor, David
7 Perez. In or about September 2020, a co-worker shared a message with the group that he needed a
8 break. Another co-worker, Mark Gonzalez, responded: "And I need a hug from a cute redhead girl.
9 Never hugged a redhead before. If I can't have one then you can't have a break." There was only one
10 woman who worked on their team; she had red hair and identified as a lesbian. Mark also wrote later
11 on the group chat: "1st floor needs to be heated. My skin is as dry as a lesbian's tongue." Supervisor
12 David Perez then wrote in response to Mark's posting, "Mark ... come see me at f2 buffer please." He
13 did not write anything on the chat stating that this language was unacceptable or otherwise follow-up
14 publicly. Mark responded, "Uh oh. Omw [on my way]".

15 23. Mr. Hicks was uncomfortable being a bystander to sexual harassment targeting his
16 female co-worker. He was also concerned that his supervisor Mr. Perez failed to indicate that Tesla
17 had any policy regarding inappropriate sexual language in the workplace, or even that Defendant
18 disapproved of this behavior. He did not say anything immediately because it felt futile and he was
19 worried about retaliation. On further reflection, however, he felt like he had to speak up.

20 24. In or about November or December 2020, Mr. Hicks complained to HR about the
21 comments that Mark had made, and about Defendant's failure to ensure that employees would not
22 publish sexually explicit or derogatory comments about employees' gender or sexual orientation to
23 group messages in the future.

24 **Retaliation & Denial of Advancement Opportunities**

25 25. Mr. Perez resented that Mr. Hicks had complained to HR regarding his concerns.
26 Shortly following Mr. Hicks' complaint to HR, in January 2021, Mr. Perez gave Mr. Hicks a negative
27 performance review, indicating that he "needs improvement."

28 26. However, the review did not criticize Mr. Hicks' performance of his job duties. Instead,

1 Mr. Perez essentially criticized Mr. Hicks for not being one of the guys and fitting in. Mr. Perez
2 specifically complained about Mr. Hicks providing “feedback” about other team members. Mr. Perez
3 wrote: “Carlos does not really socialize with other members of the team. In the past, he has had some
4 confrontation, or feedback, for at least half the members of the team on second floor. Initially stemming
5 from apparent favoritism and then lately towards apparent unbalanced feedback on mine and my leads
6 part of the team.” Mr. Perez admitted that Mr. Hicks was doing his job and meeting the basic
7 requirements of his position, and that he was a “bright young kid” but said that he was “not interested in
8 engaging with the team, rather happy to focus on his work and not be bothered.” Mr. Hicks had met his
9 job requirements, but he had failed to adapt to the company culture of not providing “feedback” about
10 harassment and discrimination. His supervisor was apparently enforcing the CEO’s directive that
11 employees should be “thick-skinned” as a response to harassment and discrimination.

12 27. Performance reviews are strictly interpreted by Tesla and its employees: a review that
13 an employee has not “me[t] expectations” forecloses that employee from advancement. By remarking
14 that Mr. Hicks’ performance “need[ed] improvement” on his January 2021 review, Mr. Perez
15 prevented Mr. Hicks from becoming eligible for promotion during the January – June 2021 time
16 period.

17 28. The January 2021 performance review directly impacted Mr. Hicks’ opportunity for
18 advancement. Mackenzie Wright, an internal recruiting coordinator for Tesla, later admitted to Mr.
19 Hicks that he was being denied promotions because of the negative performance review. She wrote to
20 Mr. Hicks: “You should have received an email stating you were deemed not eligible for internal
21 mobility. The reason listed per HR was listed as ‘Needs Improvement score on last performance
22 review’.” Mr. Hicks did not receive such an email, and he was repeatedly turned down for promotions.

23 29. After receiving the negative performance review, Mr. Hicks asked Mr. Perez for
24 coaching to “directly address and correct these work performance concerns.” Mr. Perez did not
25 respond. Mr. Perez sent Mr. Hicks to unfavorable areas of the warehouse while working overtime,
26 while white coworkers, and other co-workers who had not raised complaints about sexual harassment,
27 were permitted to remain in their normal work areas during overtime.

28 30. Working under Mr. Perez became so intolerable that in February 2021, Mr. Hicks asked

1 to switch from the D shift to the C shift. Mr. Hicks knew he would be paid less on the C shift, but was
2 willing to take lower pay in exchange for better treatment and working conditions under a different
3 supervisor.

4 31. Feedback that Mr. Hicks received from other supervisors clearly indicates that the
5 January 2021 review was retaliatory, and did not reflect Mr. Hicks' abilities as an employee. After Mr.
6 Hicks made the switch to the C shift, other supervisors recognized that Mr. Hicks was a promising
7 worker. Terrell Williams, an Associate Manager in Production Control at Tesla and a Black man,
8 wrote on April 21, 2021, "Very articulate and eloquent, Carlos's potential is limitless. Looking
9 forward to watching your growth."

10 32. In May 2021, Mr. Hicks asked Gloria Karna, his new supervisor on C shift, for
11 assistance in addressing the negative remarks Mr. Perez had given him in his January 2021
12 performance review. Ms. Karna, a woman of color, responded to Mr. Hicks' request on May 3.
13 Referring to the negative performance review provided by Mr. Perez, Ms. Karna said: "I am not able
14 to validate this review. Carlos is very meticulous, detail oriented, and offers ideas for improvement in
15 each area he's assigned. It just so happens, w[h]ere the leads have asked Carlos to work, that area is
16 shining and improved. I will be scheduling 1X1's with all associates and happy to set aside extra time
17 to address any concerns Carlos may have. I believe Carlos has a bright future here at Tesla."

18 33. The positive feedback that Mr. Williams and Ms. Karna, a Black man and a woman of
19 color, gave Mr. Hicks was apparently disregarded and carried no weight with Tesla. Despite Ms.
20 Karna's review directly refuting the validity of Mr. Perez's January 2021 comments, the negative
21 review remained in Mr. Hicks' file, and continued to limit his opportunities for formal advancement.
22 At the same time, Mr. Hicks was given increased job responsibilities, performing inventory control
23 tasks, while still being compensated as a material handler.

24 34. Mr. Hicks applied for and was denied opportunities for promotion. He was informed
25 that the lack of promotion was due to Mr. Perez's retaliatory negative performance review.

26 35. A causal link exists between the protected activity and the adverse action because Mr.
27 Perez made clear that he was giving Mr. Hicks a negative review because of his protected activity,
28 criticizing Mr. Hicks for providing "feedback" about other team members, and for failing to "socialize"

1 with co-workers. Even when Mr. Hicks challenged the negative review and other supervisors provided
2 positive feedback about Mr. Hicks, saying they could not “validate” the negative review, and that Mr.
3 Hicks was actually an excellent employee, Tesla refused to change the negative review. This prevented
4 Mr. Hicks from being promoted during a six-month period when he was actively seeking promotion,
5 which is an adverse employment action.

6 36. Mr. Hicks repeatedly requested on-the-job training that he needed in order to safely
7 operate the forklift. This was repeatedly denied.

8 37. This denial was also part of a pattern and practice of ignoring safety concerns. Tesla
9 frequently staged inventory without leaving adequate space for employees to walk. In or about May
10 2021, Mr. Hicks raised safety concerns with HR. HR promised to investigate the issues but it resulted
11 in no improvement. In June 2021, one of Mr. Hicks’ co-workers fell between parts that were staged
12 too closely together and cut himself badly enough to require stitches.

13 38. In response to Mr. Hicks’ request for on-the-job forklift training, Mr. Hicks was ridiculed
14 and subjected to abusive treatment by Supervisor Paul Daniels. Mr. Daniels appeared to have racially-
15 motivated aggression toward Mr. Hicks. Mr. Daniels was a military veteran and biker with visible
16 tattoos on his neck portraying skulls and hell-related imagery.

17 39. Mr. Daniels yelled at Mr. Hicks about his request for training on the forklift, treating him
18 with aggression that was not shown by Mr. Daniels to Mr. Hicks’ non-Black co-workers. Mr. Daniels
19 called Mr. Hicks a “smart ass mf” and said, “lucky we’re at work, I’m from fucking Cali,” which Mr.
20 Hicks took as the physical threat that it was no doubt intended to be. Mr. Hicks reported this to HR as
21 well, but HR again failed to act.

22 40. Tesla invited Mr. Hicks and other Black employees to apply for higher positions, but it
23 was clear that the Defendant was more concerned about appearing to cover its bases than actually
24 encouraging its Black employees’ growth. White co-workers who were less qualified than Black
25 applicants routinely got the jobs based on their personal relationships with managers outside of work.

26 41. Patterns of disregard for the safety and comfort of its Black employees, and direct
27 targeting by supervisors based on his race, made working at Tesla unwelcoming and miserable for Mr.
28 Hicks. There are very few Black employees at Tesla, and Mr. Hicks feared retaliation if he pushed

1 harder on HR to address the issue of pervasive racism Defendant allowed to manifest and to which
2 Defendant directly contributed.

3 **Threats for Taking Medical Leave**

4 42. In July 2021, Mr. Hicks was in a serious car accident while on his way home from work.
5 He provided all required and requested medical documentation to his employer, and he was out of work
6 while he was waiting to hear back from his employer about his efforts to return to work. Tesla badly
7 mismanaged Mr. Hicks' medical leave situation. Instead of getting back to him about accommodations,
8 Tesla's HR department emailed him to state that because he had not reported to work for over two
9 weeks, they would be terminating him for job abandonment. Even as he was recovering from the
10 accident, Mr. Hicks had to struggle against Tesla leadership to make them acknowledge that he had
11 already been placed on leave by someone else in HR. Tesla eventually recognized that it was a failure of
12 communication by management, not by Mr. Hicks, that led to the confusion, and agreed not to terminate
13 him for job abandonment as he healed from his accident.

14 **Forced Resignation**

15 43. After repeated attempts to communicate with HR about ongoing workplace issues, it
16 became clear that HR was not interested in seriously addressing the unfair and discriminatory treatment
17 Mr. Hicks and other Black workers faced every day at Tesla. Mr. Hicks continued to be impacted by Mr.
18 Perez's retaliatory performance review that kept him from advancement, and was fed up that there was
19 no resolution to the safety issues he brought to Tesla's attention. The policy at Tesla seemed to be that
20 discrimination and retaliation would be tolerated, and if an employee had anything to say about it, it was
21 their fault for not having the "thick-skin" necessary to fit in with company culture.

22 44. Mr. Hicks resigned in August 2021 because working conditions were intolerable and he
23 could see no path forward at the company.. In his resignation, Mr. Hicks explained that he felt it had
24 become unsafe to work due to the mental and emotional distress caused by Tesla's retaliation, and was
25 concerned that Tesla did not take his safety concerns or his concerns about sexual and racist remarks
26 made by management and employees seriously.

27 //

28 //

FIRST CLAIM FOR RELIEF

Racial Discrimination in Violation of 42 U.S. Code § 2000e-2(a)&(d)

45. Plaintiff hereby incorporates by reference Paragraphs 1 through 44 inclusive of this Complaint as if fully set forth herein.

46. At all times herein mentioned, 42 U.S.C. § 2000e-2 was in force and binding.

47. The foregoing conduct violates Title VII of the Civil Rights Act, 42 U.S.C. § 2000(e)-2(a)&(d).

48. Mr. Hicks was discriminated against because he was a Black employee at Tesla. Racism against Black employees was pervasive at Tesla and permeated Mr. Hicks' entire employment experience. Managers and supervisors routinely permitted racist graffiti and language. At all relevant times, Mr. Hicks was an excellent employee, who was told by managers of color that he had a "bright future" and "limitless potential" at Tesla. However, the perspective of those managers was discounted because of Mr. Hicks' race. He was discriminated against because he was a Black employee who dared to speak up and complain about sexism in the workplace. Tesla denied Mr. Hicks promotion, forced him to transfer to another position with lower pay to avoid a retaliatory supervisor, and denied Mr. Hicks on-the-job training, all of which constitutes race-based discrimination, in violation of 42 U.S.C. § 2000e-2(a) & (d).

49. Mr. Hicks received a Right to Sue letter from the EEOC on February 28, 2023, attached hereto as Exhibit 1, and has commenced this action in a timely manner. Accordingly, he has exhausted his administrative remedies.

50. Tesla's discriminatory employment practices described above have resulted in a loss of past and future wages for Mr. Hicks, and he requests relief as set forth below.

51. On information and belief, Tesla has engaged in a pattern and practice of intentional discrimination against Black employees.

52. Tesla has acted with malice or reckless indifference to the rights of its Black employees, including Mr. Hicks. Mr. Hicks is thus entitled to recover punitive damages in an amount to be determined according to proof.

//

SECOND CLAIM FOR RELIEF

Racial Harassment in Violation of 42 U.S. Code § 2000e

53. Plaintiff hereby incorporates by reference Paragraphs 1 through 52 inclusive of this Complaint as if fully set forth herein.

54. At all times herein mentioned, 42 U.S.C. § 2000e was in force and binding.

55. The foregoing conduct violates Title VII of the Civil Rights Act, 42 U.S.C. § 2000(e).

56. Racism against Black employees was severe and pervasive at Tesla and permeated Mr. Hicks' entire employment experience. Managers and supervisors routinely permitted racist graffiti and language throughout the duration of Mr. Hicks' employment. The racial harassment was so severe and pervasive that it created a hostile and offensive work environment, and resulted in adverse employment decisions. Due to the hostile work environment, Mr. Hicks was forced to terminate his employment, resulting in a loss of past and future wages.

57. Tesla has engaged in a pattern and practice of permitting a hostile, offensive, and abusive work environment for Black employees. Tesla has acted with malice or reckless indifference to the rights of its Black employees, including Mr. Hicks. Mr. Hicks is thus entitled to recover punitive damages in an amount to be determined according to proof.

THIRD CLAIM FOR RELIEF

Retaliation in Violation of 42 U.S.C. § 2000e-3(a)

58. Plaintiff hereby incorporates by reference Paragraphs 1 through 57 inclusive of this Complaint as if fully set forth herein.

59. At all times herein mentioned, 42 U.S.C. § 2000e-3(a) was in force and binding.

60. The foregoing conduct violates Title VII of the Civil Rights Act, 42 U.S.C. § 2000(e)-3, *et seq.*

61. At all relevant times, Mr. Hicks was performing his job satisfactorily. He was retaliated against after complaining of sexual harassment of a co-worker at work. The denial of promotion, the forced transfer to another position with lower pay to avoid a retaliatory supervisor, and the denial of opportunities for on-the-job training constitutes retaliation for protected activity, in violation of 42

1 U.S.C. § 2000e-3(a).

2 62. Mr. Hicks received a Right to Sue letter from the EEOC and has commenced this action
3 in a timely manner. Accordingly, he has exhausted his administrative remedies.

4 63. Tesla's discriminatory employment practices described above have resulted in a loss of
5 past and future wages for Mr. Hicks, and he requests relief as set forth below.

6
7 **FOURTH CLAIM FOR RELIEF**

8 **Violation of Nev. Rev. Stat. § 613.330 - Discrimination**

9 64. Plaintiff hereby incorporates by reference Paragraphs 1 through 63 inclusive of this
10 Complaint as if fully set forth herein.

11 65. At all times herein mentioned, Nevada Revised Statute section 613.330 was in force
12 and binding. The foregoing conduct violates the statute.

13 66. Mr. Hicks was discriminated against because he was a Black employee at Tesla.
14 Racism against Black employees was pervasive at Tesla and permeated Mr. Hicks' entire employment
15 experience. Managers and supervisors routinely permitted racist graffiti and language. At all relevant
16 times, Mr. Hicks was an excellent employee, who was told by managers of color that he had a "bright
17 future" and "limitless potential" at Tesla. However, the perspective of those managers was discounted
18 because of Mr. Hicks' race. He was discriminated against because he was a Black employee who
19 dared to speak up and complain about sexism in the workplace. Tesla denied Mr. Hicks promotion,
20 forced him to transfer to another position with lower pay to avoid a retaliatory supervisor, and denied
21 Mr. Hicks on-the-job training, all of which constitutes race-based discrimination.

22 67. Mr. Hicks received a Right to Sue letter from the EEOC which was cross-filed with the
23 Nevada Equal Rights Commission, and he has commenced this action in a timely manner.
24 Accordingly, he has exhausted his administrative remedies pursuant to Nev. Rev. Stat. § 613.430.

25 68. Tesla's discriminatory employment practices described above have resulted in a loss of
26 past and future wages for Mr. Hicks, and he requests relief as set forth below.

27 69. On information and belief, Tesla has engaged in a pattern and practice of intentional
28 discrimination against Black employees.

70. Tesla has acted with malice or reckless indifference to the rights of its Black employees, including Mr. Hicks. Mr. Hicks is thus entitled to recover punitive damages in an amount to be determined according to proof.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays for the following relief:

1. All damages Plaintiff has sustained as a result of Defendant's conduct, including back pay, front pay, general and specific damages for lost compensation and job benefits they would have received but for the discriminatory practices of Defendant, according to proof;
2. Punitive and exemplary damages in amounts consistent with the law;
3. That Defendant be ordered to cease and desist from its unlawful employment practices permitting racist graffiti and language in its warehouses, and a declaratory judgment that such employment practices as unlawful under 42 U.S.C. § 2000(e), Title VII of the Civil Rights Act of 1964;
4. For prejudgment interest to the extent permitted by law;
5. For costs and expenses of suit incurred, including reasonable attorneys' fees, to the extent permitted by law; and
6. For such other legal and equitable relief as the Court may deem just and proper.

DATED: May 26, 2023

Respectfully Submitted,

McCRACKEN, STEMERMAN & HOLSBERRY

/s/ Sarah Grossman-Swenson

Sarah Grossman-Swenson, SBN #11979

Kimberley C. Weber, SBN #14434

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Attorneys for Plaintiff Carlos Hicks

Exhibit 1 to Complaint

EEOC Form 161-B (01/2022)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: **Carlos Hicks**
2211 South West 4th Avenue # 517
Portland, OR 97201

From: **San Francisco District Office**
450 Golden Gate Avenue 5 West, PO Box 36025
San Francisco, CA 94102

EEOC Charge No.
550-2022-00161

EEOC Representative
DAVID BRANNEN,
SENIOR INVESTIGATOR

Telephone No.
(650) 684-0912

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA **must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice;** or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

More than 180 days have passed since the filing of this charge.

The EEOC is terminating its processing of this charge.

Equal Pay Act (EPA): *You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.***

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

February 28, 2023 - *Scott Doughtie*
FOR: Nancy Sienko
District Director

Enclosures(s)

cc: **M. Yusuf Mohamed**
TESLA, INC.
Attn: Legal Department
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Enclosure with EEOC
Form 161-B (01/2022)

INFORMATION RELATED TO FILING SUIT UNDER THE LAWS ENFORCED BY THE EEOC

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA), the Genetic Information Nondiscrimination Act (GINA), or the Age Discrimination in Employment Act (ADEA):

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit before 7/1/10 -- not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.